

\*\*\* ORIGINAL LETTER DATED 10-17-2002 \*\*\*

Mr. Jon L. Craig  
Director, Water Quality Division  
Oklahoma Department of  
Environmental Quality  
P.O. Box 1677  
Oklahoma City, OK 73101-1677

Re: NPDES Permit Program Review  
End-of-Fiscal Year 2002

Dear Mr. Craig:

In accordance with the Memorandum of Agreement executed between the Oklahoma Department of Environmental Quality (ODEQ) and the U.S. Environmental Protection Agency (EPA), Region 6, please find enclosed our findings concerning administration of the permitting portion of the NPDES program by the State of Oklahoma. Oklahoma's discharge permitting program is consistent with all Federal regulations and laws, EPA policies, EPA guidelines and guidance, and it adheres to the requirements agreed upon in the MOA. Overall, EPA Region 6 is very pleased with Oklahoma's administration of the NPDES program. ODEQ is to be congratulated for meeting the CY2001 national goal of reducing the major permit backlog to 10% or less. ODEQ was one of 14 NPDES authorized state programs nation-wide and the only Region 6 NPDES authorized state program to achieve the national goal.

We look forward to receiving your response within 45 days of receipt of this report. If you have any questions, please do not hesitate to let me know or have your staff contact Ed McHam at 214-665-7507.

Sincerely yours,

SIGNED BY

Jack Ferguson, P.E.  
Chief  
NPDES Permits Branch

Enclosure

U.S. ENVIRONMENTAL PROTECTION AGENCY'S  
END-OF-FISCAL YEAR REVIEW  
OF THE  
STATE OF OKLAHOMA'S ADMINISTRATION  
OF THE  
NPDES PERMITTING PROGRAM

STATE FISCAL YEAR 2002  
JULY 1, 2001 - JUNE 30, 2002

October 17, 2002

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## EXECUTIVE SUMMARY

The National Pollutant Discharge Elimination System (NPDES) program was assumed by the State of Oklahoma Department of Environmental Quality (ODEQ) on 11/19/1996 (61FR65047, 12/10/1996), and is administered under the Oklahoma Discharge Elimination System (OPDES). As cited in the Memorandum of Agreement (MOA) executed between both parties effective 11/11/1996 and modified on 08/04/1997, EPA is responsible for assuring that Oklahoma's discharge permitting program is consistent with all Federal regulations and laws, EPA policies, EPA guidelines and guidance, and that it adheres to the requirements agreed upon in the MOA. EPA is required to conduct, at least semiannually, a detailed audit of the State's program and to provide a copy of the report to the State (MOA Sections VI.B.5 and VII.A). This report will serve to satisfy these requirements for the State of Oklahoma End-of-Fiscal Year 2002.

Oklahoma's discharge permitting program is consistent with all Federal regulations and laws, EPA policies, EPA guidelines and guidance, and it adheres to the requirements agreed upon in the MOA. The following major findings are listed for the FY2002 end-of-year review of the State of Oklahoma's administration of the NPDES permitting program. A discussion of the finding may be found at the report section listed. A comprehensive findings summary is listed at Section P of this report.

### STRENGTHS

The degree of cooperation and coordination between the two agencies during FY2002 is a success story. ODEQ has been very responsive to working with EPA in all program areas [Section H.1]. EPA is very pleased with the high level of cooperation and coordination to resolve permit concerns which have been successful in the issuance of high quality OPDES permits [Section I]. ODEQ has a strong working relationship with federal and state agencies in the issuance of OPDES permits [Section K.2].

ODEQ is to be congratulated for meeting the CY2001 national goal of reducing the major permit backlog to 10% or less. ODEQ was one of 14 NPDES authorized state programs nation-wide and the only Region 6 NPDES authorized state program to achieve the national goal [Section J.3].

### CONCERNS

The backlog of expired and never issued individual permits remains a national program concern, and ODEQ needs to continue to take aggressive steps to maintain the major permit backlog at or below 10% and achieve a minor permit backlog of 10% or less by the end of CY2004 [Section J.3].

EPA continues to note potential negative impacts to the Pretreatment Program which could be created by future staff transfers or departures in the absence of adequately trained additional staff [Section O].

### RECOMMENDATIONS/REQUESTED ACTIONS

ODEQ is requested to reaffirm in writing to EPA within 45 days of the receipt of this report its commitment to maintain the major permit backlog within national goals and achieve the national minor permit backlog reduction goals within the EPA national deadlines [Section J.3].

It is requested that ODEQ submit to EPA a plan for obtaining and/or cross training additional staff in the administration of the Pretreatment Program [Section O].

## A. INTRODUCTION

The Water Quality Protection Division of the U.S. Environmental Protection Agency (EPA), Region 6, conducted the FY2002 end-of-year review of the State of Oklahoma's administration of the NPDES permitting program on 08/28-29/2002. The review team consisted of Ed McHam, Phil Jennings, and Lee Bohme of the NPDES Permits Branch and Diane Smith and LaGayla Bradley of the Customer Service Branch. Representing the Oklahoma Department of Environmental Quality (ODEQ) Water Quality Division was Quang Pham, Engineering Manager, Wastewater Discharge Permit Section, along with other ODEQ managers and staff attending. The EPA Region 6 Ecosystems Protection Branch also contributed to this report.

The National Permit Compliance System (PCS) is a major cornerstone of the partnership agreement between EPA and ODEQ. EPA agrees to provide PCS technical support and assistance to ODEQ, and ODEQ agrees to the timely input of OPDES permit and enforcement data into PCS (MOA Sections III.A.9, III.B.2.d, IV.B, and V.A.1). All individual permit issuance reporting and backlog analyses in this report are based on PCS data retrieval by EPA. Since general permits administered by ODEQ are not included in the PCS database, the reporting and analyses of general permit issuance, facility coverage, and backlog are based on information from state databases and/or the appropriate national industrial activity general stormwater construction or multi-sector permit databases managed by ODEQ.

As specifically used in this report, the term POTW (publicly owned treatment works) shall mean a facility having a Standard Industrial Classification (SIC) code of 4952 with a PCS "Municipal" industrial classification subcode. The term "Department" shall mean the Oklahoma Department of Environmental Quality. The terms "OAC", "CFR", and "OWRB" shall mean the Oklahoma Administrative Code, the Federal Code of Regulations, and the Oklahoma Water Resources Board, respectively. Unless otherwise stated, the terms "fiscal year" and "FY" refer to the State of Oklahoma fiscal year cycle July 1 - June 30. The term "CY" refers to calendar year.

## B. PROGRAM REVIEWS

### 1. PREVIOUS PROGRAM REVIEWS

The EPA Region 6 Water Quality Protection Division conducted the FY2002 mid-year review of the OPDES permitting and administrative programs on 03/20/2002 and 03/28/2002. A copy of the review report was mailed to ODEQ on 05/15/2002 in compliance with Section VI.B.5 of the MOA.

### 2. FUTURE PROGRAM REVIEWS

In order for both agencies to plan for more effective program reviews, it is agreed to tentatively schedule the FY2003 Mid-Year NPDES Program Review for Wednesday, 02/19/2003.

## C. LEGAL AUTHORITY

Following Section VII.A.4 and B of the MOA, a detailed report on the legal authority upon which ODEQ's OPDES program is based (including state statutes and rules) will be included in the end-of-year report. The end-of-year report will (a) list changes in legal authority since last end-of-year review; (b) list changes in statutes/rules since last end-of-year review; and (c) list federal rules to be adopted by ODEQ and schedule for adoption.

The OPDES program is authorized under the Title 27A - Environment and Natural Resources, Chapter 2 - Oklahoma Pollutant Discharge Elimination System Act, Article VI, Section 2-6-201 (Authority), and operated under rules adopted by the ODEQ at OAC252:605 and OAC252:605. ODEQ is on a schedule to readopt the

OPDES program rules no later than July 1 of each year reflecting the CFR published as of July 1 of the previous year (including but not limited to required CFR provisions listed at 40CFR123.25). On 06/13/2002, the state readopted OPDES program rules including non-substantial amendments correcting typographical errors, incorrect citations, etc., and reference the CFR published as of 07/01/2001.

Any new or substantially amended state rules or statutes will require approval by EPA prior to implementation in the OPDES program (MOA Section VII.B). ODEQ advised EPA that the OAC 252:690 rules (Water Quality Standards Implementation) promulgated in June 2001 were remanded due to comments received during the public comment period. On 01/04/2002, EPA received a draft of changes to the remanded OAC 252:690 rules and submitted written suggestions on 01/24/2002. The OAC 252:690 revised final rule were effective on 06/13/2002.

#### D. JURISDICTION OVER PERMITS

Section III.C of the MOA states that EPA will retain jurisdiction and responsibility for certain portions of the NPDES program in the State of Oklahoma which are not within the scope of ODEQ jurisdiction. The portions of the program not assumed by ODEQ are generally those areas regulated by the Oklahoma Corporation Commission (Oil & Gas Sector) and the Oklahoma Department of Agriculture.

The jurisdiction of Oklahoma environmental agencies is defined by 27A O.S. Section 1-3-101 (OSCN 2002), Oklahoma Environmental Quality Act. The discharge categories retained by EPA are described in Section III.C of the MOA by general SIC code groups. Because of some confusion over permit jurisdiction issues during the early phases of ODEQ's program assumption, EPA and ODEQ staff developed a working version of the MOA list in the early part of FY1999 for purposes of clear PCS data retrieval. The working list at Appendix A of this report lists specific SIC codes within each specified discharge category to be retained by EPA. In disputes over jurisdiction, the Oklahoma Statutes take precedence over Appendix A working list of SIC codes.

Appendix A contains three SIC codes not specifically listed in Section III.C of the MOA; (1) Code 4221 (Farm Product Warehouse/Storage - Elevator Storage - other than stormwater); (2) Code 5154 (Livestock, Buying and/or Marketing Including Livestock Auction Markets); and (3) Code 5171 (Petroleum Bulk Terminals/Stations, other than stormwater under certain circumstances). It is recommended that ODEQ specifically reference facilities with SIC codes 4221 (other than stormwater), 5154, and 5171 (other than stormwater in certain circumstances) as being under EPA permitting jurisdiction in the next MOA revision.

#### E. WATER QUALITY, CONTINUING PLANNING PROCESS

The following information is supplied by the EPA Region 6 Ecosystems Protection Branch.

##### 1. STATUS OF WATER QUALITY STANDARDS

The Oklahoma Water Resources Board (OWRB) submitted proposed changes in the Oklahoma Surface Water Quality Standards in August 2001. EPA responded in August 2001 with disapproval of certain portions of the 2001 submittal and approval of the remaining sections. EPA and OWRB in partnership with ODEQ are working together during FY2003 to resolve the issues raised by the EPA disapproval actions.

2. STATUS OF WATER QUALITY MANAGEMENT PLAN AND  
CONTINUING PLANNING PROCESS (CPP) DOCUMENT

The Water Quality Management Plan is current. During the draft permit preparation process, Section IV.D.A.2 of the MOA states "[a]ny needed changes in the [CWA Section] 208 Water Quality Management Plan identified during this process will be made using procedures described in the CPP. The changes will be made prior to final permit drafting and issuance." ODEQ has been very diligent in submitting requests for needed changes in the Water Quality Management Plan to EPA prior to final permit drafting and issuance.

The revised CPP 2000 Edition Document submitted to the Agency in the third quarter FY2000 was approved on 05/09/2000. No changes to the CPP Document were proposed during FY2002.

F. FUNDING LEVELS

EPA will commit, to the maximum extent possible, funding to the State to support this effort. It is recognized that it is the State's responsibility after program approval to run and manage the OPDES, Pretreatment, Storm Water, and Sewage Sludge Programs with or without the assistance of Federal funding (MOA Section III.B.1). The State of Oklahoma NPDES program is funded through legislative appropriations, permit application fees, and CWA Section 106 grants from EPA. While additional resources would allow ODEQ to improve efficiency and productivity, current funding levels appear to be adequate to administer the program.

G. STAFFING LEVELS

The Wastewater Discharge Permit Section under the supervision of Quang Pham, Engineering Manager, is responsible for the drafting and issuing of individual industrial and municipal permits and non-stormwater industrial sector general permits. The Watershed Planning and Toxics Control Section under the supervision of Mark Derichsweiler, Engineering Manager, is responsible for TMDL development, pretreatment and toxicity permitting support, and the drafting, issuing, and administration of stormwater industrial general permits (Multi-Sector and Construction Activities). Both program area managers report to Jon Craig, Director, Water Quality Division.

The Wastewater Discharge Permit Section is fully staffed at 15 authorized full time employees (FTEs) not including support staff. This is an increase from FY2001 when 12 FTEs were authorized. The Toxics Section is currently fully staffed. One new permit writer is scheduled to attend the NPDES Permit Writers' Training Course during CY2002. The current Permit Section and Toxics Section staffing levels appear adequate to administer their portion of the NPDES permitting program.

Quang Pham, Engineering Manager of the Wastewater Discharge Permit Section, retired from the Department at the end of August 2002. Because of the procedures in place and the experience of the staff and management, no adverse impacts on the OPDES permitting program are expected by his departure. Tentative plans are to reorganize the Wastewater Discharge Permit Section during FY2003 into two sections - Industrial Permits and Municipal Permits.

H. PARTNERSHIP

1. COOPERATION AND COORDINATION

EPA and ODEQ agree in the MOA to maintain a high level of cooperation and coordination in a partnership to assure the successful and effective administration of the OPDES permitting program. The degree of cooperation and coordination between the two agencies during FY2002 is a success story.



ODEQ has been very responsive to working with EPA in all program areas. Even through occasional technical and programmatic disagreements, EPA finds ODEQ to be professional in all occasions of discourse. We appreciate ODEQ's frank and courteous approach to the EPA/State partnership in Oklahoma.

EPA has been responsive to providing technical and/or regulatory assistance and expedited preliminary draft permit review when requested. EPA has also provided technical staff on a regular basis to ODEQ to assist in the development of complex permits.

## 2. MOA AND PROGRAM DESCRIPTION

The original MOA between EPA and ODEQ was signed and approved by the Regional Administrator on 11/11/1996. The MOA was modified on 08/04/1997. ODEQ indicated that a draft of an updated Program Description document and MOA will be submitted to EPA during February-March 2003. The update is needed to reflect recent organizational changes.

In order to streamline the consultation process, ODEQ is negotiating changes in their Memorandum of Understanding (MOU) with the U.S. Fish and Wildlife Service (USFWS). Due to inadequate staffing levels at USFWS, it is not known when the negotiations will be completed. When completed, ODEQ will propose modifying the MOA to incorporate these changes.

## 3. MEETINGS HELD DURING FY2002

The Water Quality Protection Division hosted a State Program Managers Meeting on 08/21-22/2001. On the first day, the NPDES Permits Branch led discussions on permitting issues. The Ecosystems Branch led discussions on watershed issues on the second day. Key ODEQ program managers attended and participated in both meetings.

## 4. PROGRAM ASSISTANCE AND TRAINING

Section II of the MOA requires EPA to provide to ODEQ on a continuing basis, updated information, copies of proposed and final regulations and guidance documents, training, technical and other assistance on the interpretation and implementation of Federal regulations, policies and guidelines regarding permitting and enforcement matters and the NPDES, Pretreatment, Storm Water and Sewage Sludge programs.

On a continuing basis by electronic mail, the NPDES Permits Branch alerts ODEQ to the publication on EPA websites of Federal Register notices of proposed and final regulations, guidance documents, policies, and guidelines. Additional EPA technical assistance is provided at the following websites:

FEDERAL REGISTER (ACROBAT PDF FORMAT)

[http://www.access.gpo.gov/su\\_docs/aces/aces140.html](http://www.access.gpo.gov/su_docs/aces/aces140.html)

CODE OF FEDERAL REGULATIONS (TEXT & ACROBAT PDF FORMAT)

<http://www.access.gpo.gov/nara/cfr/index.html>

NATIONAL EFFLUENT GUIDELINES AND STANDARDS DOCUMENTS  
40CFR SUBCHAPTER N (PARTS 400-471)

<http://www.epa.gov/OST/guide>  
<http://www.epa.gov/OST/pc/industry.html>

NPDES PERMITS PROGRAM (OWM) - CONTACTS, FAQs, LINKS, OUTREACH, PROGRAM AREAS, PUBLICATIONS, REGULATIONS, ETC.

[http://cfpub1.epa.gov/npdes/?program\\_id=0](http://cfpub1.epa.gov/npdes/?program_id=0)

NPDES PERMIT APPLICATIONS

<http://www.epa.gov/owm/npdes.htm#forms>

NPDES PERMIT WRITERS' TRAINING COURSE <See OUTREACH at>

[http://cfpub1.epa.gov/npdes/?program\\_id=0](http://cfpub1.epa.gov/npdes/?program_id=0)

NPDES PERMIT WRITER'S MANUAL

[http://cfpub1.epa.gov/npdes/writermanual.cfm?program\\_id=0](http://cfpub1.epa.gov/npdes/writermanual.cfm?program_id=0)

WATER PERMITTING 101

<http://www.epa.gov/npdes/pubs/101pape.htm>

EPA PUBLIC LISTSERVS: HOW TO SUBSCRIBE

<http://www.epa.gov/epahome/listserv.htm#1>

EPA'S OFFICE OF WATER ONLINE REFERENCE LIBRARY

<http://www.epa.gov/watrhome/library>

NATIONAL SERVICE CENTER FOR ENVIRONMENTAL PUBLICATIONS

<http://www.epa.gov/ncepihom/>

OTHER EPA INFORMATION SOURCES

<http://www.epa.gov/epahome/resource.htm>

WATERNEWS (EPA OFFICE OF WATER ONLINE PUBLICATION)

<http://www.epa.gov/OW/waternews>

TITLE 33 US CODE - NAVIGATION & NAVIGABLE WATERS  
CHAPTER 26 - WATER POLLUTION PREVENTION & CONTROL

<http://www4.law.cornell.edu/uscode/unframed/33/ch26.html>

US SUPREME COURT DECISIONS

<http://supct.law.cornell.edu/supct/>

On 03/21/2002 in conjunction with the FY2002 NPDES Program Review, Mai Tran of the NPDES Permits Branch conducted workshop for ODEQ managers and staff on Data Review and Evaluation in the NPDES Program. This instructive workshop was well attended.

#### I. EPA OPDES PERMIT REVIEW OVERSIGHT ACTIVITIES

A month-by-month analysis of permits reviewed by EPA during FY2002 is included in Appendix B of this report. Six (6) draft permits were carried over from FY2001, and 37 draft permits were received during FY2002 through 06/30/2002. EPA is very pleased with the high level of cooperation and coordination to

resolve permit concerns which have been successful in the issuance of high quality OPDES permits.

#### 1. PRELIMINARY DRAFT PERMITS (INDIVIDUAL/MS4)

During the FY2002 period ending 06/30/2002, EPA reviewed 40 individual permits, 5 of which were carried over from FY2001. "No objection" determinations were issued by EPA on 38 draft individual permits. Of the "no objection" determinations, 19 permits received no initial comments from EPA. Nineteen (19) draft permits received "no objection" determinations after ODEQ addressed EPA's comments and suggestions. Comments were filed by EPA on the remaining 2 permits during FY2002. A "no objection" determination was issued by EPA on the draft permit for Energetix-Lawton (OK0044326) in July 2002 (FY2003) after ODEQ addressed EPA's comments and suggestions. ODEQ is expected to respond in FY2003 to our comments on Weyerhaeuser-Valliant (OK0000744) pending resolution of outstanding interstate issues and concerns filed by the U.S. Fish and Wildlife.

#### 2. PRELIMINARY DRAFT PERMITS (GENERAL)

One preliminary draft general permit were carried over from FY2001, Aquatic Animal Production - Pond Culture (OKG130000). A "no objection" finding was issued by EPA on 07/18/2001 (FY2002) after ODEQ addressed EPA's comments and suggestions. On 05/22/02, EPA received the preliminary draft general permit for Land Application of Sewage Sludge, Tier II (OKG65S000). A "no objection" finding was issued by EPA on 08/08/2002 (FY2003) after ODEQ addressed EPA's comments and suggestions of 07/19/2002.

#### 3. REVIEW WAIVER TERMINATION

While EPA will, in implementing an effective oversight role, review all permit applications, draft permits, proposed final permits, and final (issued) permits for all discharges or proposed discharges subject to the jurisdiction of ODEQ, except as provided in the MOA Sections IV.G.1 and 3 which allow the EPA to waive certain categories of permit applications, draft permits, and proposed final permits. Termination of any such waivers shall be made in writing to ODEQ (MOA Section IV.G.4). In a December 29, 1999, letter to Mark Coleman, ODEQ Executive Director, EPA rescinded the permit review waiver for all permits falling into the following categories:

- Prior to TMDL completion, draft permits for new or expanding dischargers (expanding which results in any increase in load for a pollutant of concern).
- After TMDL is completed, draft permits for new or expanding dischargers on the impaired 303(d) listed segment where the TMDL does not allocate the loadings described in the draft permit.
- After TMDL is completed, any draft permit reissuance which allows loadings in excess of those prescribed by the TMDL for that facility.
- After TMDL is completed, any permit that provides more than a 3-year schedule for an existing facility to be in compliance with final effluent limitations based on the TMDL allocation. New facilities will have to be compliant upon discharge.

#### 4. MAJOR/MINOR DISCHARGER LIST

EPA is responsible for classifying those facilities which are identified as NPDES "major" dischargers. All other dischargers shall be classified as NPDES "minor" dischargers. In this endeavor, EPA will work with the ODEQ and will

reflect the ODEQ's preference for major/minor classifications to the maximum extent feasible (MOA Section IV.M). The following facilities were recommended for reclassification in FY2002:

MAJOR TO MINOR DOWNGRADE

None

MINOR TO MAJOR UPGRADE

OK0000434	OG&E - Muskogee
OK0027138	Glenpool Utility Service Authority
OK0034509	City of Woodward
OK0043794	City of Sapulpa
OK0044083	Kiowa Power Partners

At this writing Glenpool Utility and the City of Woodward have been upgraded in PCS. PCS upgrades on the remaining should be completed during CY2002 Q4.

J. OPDES PERMIT ISSUANCE ACTIVITIES

1. INDIVIDUAL PERMITS (INCLUDING MS4)

During FY2002 period 07/01/2001-06/30/2002, ODEQ issued a total of 110 individual permits.

<u>FY2002</u>	<u>ISSUED</u>	<u>UNIVERSE</u>	<u>RATE</u>
Major Permits	25	95	26.3%
Minor Permits	85	455	18.7%

Total	110	550
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Source: PCS Data Run 09/12/2002

The current active permitting universe is 95 for major permits, 455 for minor permits. Expressed as a function of the active permitting universe, the FY2002 annualized permit issuance rate was 26.3% for major permits, 18.7% for minor permits. A 20% annualized issuance rate is considered a benchmark to maintain the permit issuance portion of the NPDES program. Now that the major permit backlog is under control, ODEQ will be increasing the minor permit issuance rate.

2. GENERAL PERMITS

ODEQ is committed to developing and issuing general permits to achieve maximum regulatory coverage of dischargers without the intensive resources required to issue individual permits. For example, Municipal/Domestic Wastewater Lagoons POTW treatment systems currently represent approximately 25% (120 facilities) of the minor individual permit universe. As these permits expire, ODEQ expects about 20-25 facilities per year for the next 5 years to seek coverage under the Municipal/Domestic Wastewater Lagoons General Permit No. OKG580000 issued 06/29/2001 rather than individual permits.

The Department is currently administering ten (10) general permits for non-stormwater discharges and two (2) general permits for stormwater (SW) discharges. No general permits expired during FY2002.

## NONSTORMWATER FACILITIES (TR = TOTAL RETENTION)

<u>PERMIT</u>	<u>SHORT NAME</u>	<u>EXP DATE</u>
OKG830000	Petroleum UST Cleanup	12/14/02
OKG040000	Coal Mines	12/31/02
OKG750000	Vehicle Wash Facilities	12/31/02
OKG75T000	Vehicle Wash Facilities TR	12/31/02
OKGCT3T00	Class III WW Impound TR	12/31/02
OKG110000	Concrete Batch Plt	03/31/03
OKG11T000	Concrete Batch Plt TR	03/31/03
OKG270000	Hydrostatic Testing	09/30/04
OKG580000	Municipal Discharge Lagoon	06/30/06
OKG11MT00	Mobile Concrete Batch Plant TR	05/05/07
OKG950000	Rock, Sand, and Gravel Quarries	09/08/07

## STORMWATER-INDUSTRIAL FACILITIES

<u>PERMIT</u>	<u>SHORT NAME</u>	<u>EXP DATE</u>
OKGP00000	MultiSector Industrial	09/28/05

## STORMWATER-CONSTRUCTION FACILITIES

<u>PERMIT</u>	<u>SHORT NAME</u>	<u>EXP DATE</u>
OKSC00000	Const Activities Industrial	09/07/02

In June 2002, the total number of facilities authorized for general permit coverage reached 2555, an increase of 28% over FY1999 levels.

<u>FACILITY AUTHORIZATIONS</u>	<u>FY1999</u>	<u>07/02</u>
Non-Stormwater	58	229
Stormwater (All)	1931	3212
Total	1989	2555

## GENERAL PERMITS EXPIRING IN FY2003

Non-stormwater general permits for Petroleum UST Cleanup, Coal Mines, Vehicle Wash Facilities, Vehicle Wash Facilities TR, Class III WW Impound TR, Concrete Batch Plant, Concrete Batch Plant TR, and Hydrostatic Testing categories will expire in FY2003. Total retention (TR) general permits do not require EPA oversight review.

Preliminary draft general permits for Petroleum UST Cleanup (OKG830000) and Coal Mines (OKG040000), currently under development, are targeted for submission to EPA for review during CY2002 Q4.

The preliminary draft general permit for Vehicle Wash Facilities (OKG750000) was received by EPA on 09/03/02, and a no objection finding was issued on 09/13/2002. Issuance is targeted for the end of CY2002 Q4.

The preliminary draft general permits for Concrete Batch Plants (OKG110000) and Hydrostatic Testing (OKG270000) are targeted for submission to EPA in CY2002 Q4 and CY2003 Q2, respectively

The preliminary draft Construction Activities Industrial Stormwater General Permit (OKR100000) replacing OKSC00000 was received by EPA on 08/12/2002. With the understanding that ODEQ would insert negotiated permit provisions related to general permit coverage eligibility and pollution prevention control for facilities discharging to water quality impaired CWA Section

303(d) streams, EPA issued a conditional no objection finding on 09/06/2002. Issuance is targeted for the CY2002 Q4.

#### NEW GENERAL PERMITS

On 07/11/2000, ODEQ submitted to EPA for oversight review the preliminary draft General Permit for Aquatic Animal Production - Ponds (OKG130000). ODEQ addressed EPA's comments and concerns of 09/01/2000 and 06/28/2001, and EPA issued a "no objection" finding on 07/18/01. The draft general permit was publicly noticed state-wide on 10/17/2001. A public informational meeting was held on 12/03/2001. The final permit may will be revised based on numerous public comments. Issuance of a final general permit for Aquatic Animal Production (Ponds) is targeted for the end of CY2002 Q4.

The draft General Permit for Rock, Sand, and Gravel Quarries (OKG950000) was submitted to EPA on 01/24/2002. Approximately 25-30 facilities are expected to apply for coverage rather than under individual permits. ODEQ addressed EPA's comments and concerns of 04/17/2002, and EPA issued a "no objection" finding on 06/05/2002. The draft general permit was publicly noticed state-wide in August 2002 and issued in September 2002

The preliminary draft General Permit for Filter Backwash Operations at Potable Water Treatment Plants (OKG380000) was received by EPA on 08/19/2002 for oversight review. EPA issued a no objection finding on 09/09/2002. Issuance is targeted for the end of CY2002 Q4.

#### 3. BACKLOG

The backlog of expired and never issued permits nation-wide has been designated by EPA as material weakness of the NPDES program. To eliminate this weakness, EPA has established the following national backlog reduction goals:

End CY2001	Major permits at or below 10%
End CY2004	All individual permits at or below 10%

In response to past NPDES Program Review Report concerns about elevated issuance backlog levels of both individual major and minor expired and never issued permits, Jon Craig, Director of the ODEQ Water Quality Division, in a letter dated 05/10/2000, committed to achieving the national goals contingent upon the implementation of general permits for minor municipal lagoon systems and aquaculture/fish hatchery operations. Other steps to reduce the backlog included (1) initiating plans to request permit renewal applications earlier than the normal 180 days prior to expiration; (2) more efficiently managing and scheduling resources in draft permit development; (3) developing other time saving methods for permit development such as standardized fact sheet and statement of basis formats and additional general permits for minor facility coverage.

ODEQ is to be congratulated for meeting the CY2001 national goal of reducing the major permit backlog to 10% or less. ODEQ was one of 14 NPDES authorized state programs nation-wide and the only Region 6 NPDES authorized state program to achieve the national goal. During a 08/15/2002 ceremony in Oklahoma City, the EPA Region 6 Water Quality Division Director, Miguel I. Flores, on behalf of the Regional Administrator, presented a plaque to ODEQ in recognition of this accomplishment. The backlog on 09/12/2002 for major and minor permits was 9.5% and 22.9%, respectively. See Appendix C. In order to maintain the major permit backlog at or below 10%, ODEQ will need to reissue an 9 additional permits by the end of CY2002. It appears that the national goal of achieving a minor permit backlog of 10% or less is achievable. The permit issuance forecast presented at Appendix C does not account for expiring

minor permits migrating to general permit coverage in future years, nor does it forecast new permit applications.

The backlog of expired and never issued individual permits remains a national program concern, and ODEQ needs to continue to take aggressive steps to maintain the major permit backlog at or below 10% and achieve a minor permit backlog of 10% or less by the end of CY2004. ODEQ is requested to reaffirm in writing to EPA within 45 days of the receipt of this report its commitment to maintain the major permit backlog within national goals and achieve the national minor permit backlog reduction goals within the EPA national deadlines.

#### K. RELATED OPDES PERMITTING PROGRAM ACTIVITIES

##### 1. PUBLIC PARTICIPATION POLICY

To fulfill the responsibility of assuring that Oklahoma's OPDES program is consistent with all federal regulations, EPA policies and guidance, requirements of the MOA, etc., EPA shall review, on an annual basis, the legal authority upon which the DEQ's program is based, including State statutes and regulations [MOA Section VII.A.6].

The formal procedures for public participation in permitting activities are listed at Title 252 of the Oklahoma Administrative Code, Chapter 4, Procedures of the ODEQ. Beyond the formal procedures, it is the policy of ODEQ to involve the public in the permitting process to the greatest extent possible. ODEQ is proactive in making the permitting process information available to the public through public information meetings and the World Wide Web. The ODEQ Water Quality Division maintains an excellent website at:

<http://www.deq.state.ok.us/WQDnew/index.htm>

From this home page and other provided links, the public can access information on the OPDES program, persons to contact, application forms, rules and regulations, and publications. From this website, the public can download copies of the Oklahoma Water Quality Assessment Report, Continuing Planning Process Document, Water Quality Standards, Unified Watershed Assessment Report, Clean Water Act Section 303(d) listing in Oklahoma, and permit application forms. Public information on water quality standards and rules/regulations is available at another excellent website maintained by the Oklahoma Water Resources Board at:

<http://www.state.ok.us/~owrb/>

##### 2. CONSULTATION WITH FEDERAL AND STATE AGENCIES

ODEQ has a strong working relationship with federal and state agencies in the issuance of OPDES permits. Following the Memorandums of Understanding with the U.S. Fish and Wildlife Service and the State Historical Preservation Officer, ODEQ routinely coordinates with these agencies prior to publicly noticing the draft permit. Agreement has always been reached when permitting issues of concern are raised prior to the public notice by the respective agencies.

##### 3. JUDICIAL/ADMINISTRATIVE ACTIONS SENT TO EPA

Section IV.0 of the MOA states:

If the terms of any permit, including any permit for which review has been waived pursuant to [Section IV.E of the MOA] are affected in any manner by any administrative or court action, the EPA may object to said terms pursuant to Section 402(d)(2) of the Clean Water Act.

ODEQ is required to immediately transmit to EPA a copy of any permit whose terms have been affected in any manner by court action or by the final disposition of any administrative appeal to EPA with the changes identified and the supporting judicial or administrative decision. There were no administrative or court actions submitted to EPA during FY2002.

#### 4. OPDES PERMIT APPEALS

The permit for the City of Heavener Utility Authority (Industrial Wastewater Treatment Facility) was issued on 10-30-2001. A suit appealing the ODEQ final permit action was filed in the District Court of Oklahoma County on 11-30-2001, Case No. CJ-2001-9284. While there are numerous legal and procedural issues raised in the suit, the precise regulatory and factual technical issues will not be known until briefs are filed. From past conversations with ODEQ staff, it is thought that projected excursions of state water quality standards-based permit metals effluent limits without the installation of additional treatment may be one of the issues. The facility's source water which is not the receiving stream is alleged by the permittee to be the potential cause of metals limits. An out-of-court settlement of the issues is being pursued.

Concerning administrative or court actions affecting the terms of any permit, Section IV.0 of the MOA states:

If the terms of any permit, including any permit for which review has been waived pursuant to [Section IV.E of the MOA], are affected in any manner by administrative or court action, the EPA may object to said terms pursuant to [Section] 402(d)(2) of the CWA. The DEQ shall immediately transmit a copy of any permit which has been affected in any manner by court action or by the final disposition of any administrative appeal to EPA, with changes identified, and supporting judicial or administrative decision. The procedures set forth for general and specific objections as found in 40 CFR [Section] 123.44 shall be followed with respect to permit issuance modification, revocation and reissuance or termination as required by a judicial or administrative decision.

#### 5. PUBLIC HEARINGS HELD/RESULTS

There were no public hearings held during FY2002.

#### 6. NEW SOURCE DETERMINATIONS

Section IV.E.2 of the MOA states:

If the [preliminary draft] permit is for a possible new source under CWA Section 306, the submittal must be accompanied by a new source/new discharger determination.

No record is available for the number of affirmative new source determinations made during FY2002. The applicability of new source regulations is included in the fact sheet of each preliminary draft permit.

#### 7. VARIANCE REQUESTS

Section IV.N of the MOA requires ODEQ to conduct an initial review of all requests for a fundamentally different factors variance (FDF) and for variances under Sections 301(c), (g), (i), (k), and 316 (a) and (b) of the Clean Water Act. No variance requests were received by ODEQ during FY2002.



## 8. INTERSTATE ISSUES

## SIMMONS FOODS - SOUTHWEST CITY, MO

Simmons Foods operates a poultry processing facility in the area of Southwest City, Missouri. The facility, regulated under the Missouri Department of Natural Resources (MDNR) Permit No. MO0036773, discharges to Cave Spring Branch at a point about 0.5 stream miles east of the Oklahoma state line. Cave Spring Branch flows from Missouri into Delaware County, Oklahoma, thence to Honey Creek, thence to the Grand Lake of the Cherokees. The MDNR publicly noticed the draft permit for Simmons in July 1999. ODEQ submitted comments on the draft permit in August and December 1999. The MDNR publicly noticed a revised draft permit in June 2000. In a letter dated 07/19/2000, ODEQ requested the MDNR to address their concerns on fecal coliform monitoring; the phosphorus stormwater runoff BMP Plan; phosphorus outfall effluent limits; the failure to establish chronic whole effluent toxicity testing; and the need to establish more specific requirements in the required Lagoon and Groundwater Study. ODEQ, MDNR, and the permittee appear to be working cooperatively and resolution of outstanding interstate issues is expected. The MDNR schedule for either re-drafting or issuing the Simmons permit is not known at this time.

## WEYERHAEUSER - VALLIANT, OK

As discussed in Section I.1 of this report, ODEQ is expected to respond in FY2003 to our comments on Weyerhaeuser-Valliant (OK0000744) pending resolution of outstanding interstate issues and concerns filed by the U.S. Fish and Wildlife. In a letter dated 08/16/2002, ODEQ advised Weyerhaeuser that the Valliant discharge may not meet the Arkansas Water Quality Standards for dissolved oxygen (DO) and sulfate at the state line using Arkansas criteria and implementation procedures (i.e., 7Q10 critical low flow). The DO model previously approved by EPA was based on the 7Q2 critical low flow per Oklahoma's standards. The permittee was requested to submit a work plan for completing a new TMDL model using Arkansas criteria and implementation procedures.

## CITY OF DECATUR, ARKANSAS

On 08/17/2002, the Arkansas Department of Environmental Quality publicly noticed the draft permit for City of Decatur (AR0022292). In a letter dated 09/16/2002, ODEQ expressed concerns on the failure of the permit to establish nutrient limitations protective of Lake Eucha, the primary public raw drinking water supply source for the City of Tulsa. The impact of nutrient discharges to the Lake Eucha/Spavinaw Creek Watershed is a major interstate concern.

L. EPA REVIEW OF OPDES PERMIT FILES

Section III.A.6 of the MOA requires ODEQ to maintain adequate public files for each permittee at the central office which are easily accessible to EPA for audit purposes. Section VII.A.3 of the MOA requires EPA to examine in detail the ODEQ files and documentation of selected facilities to determine whether permits are processed and issued consistently with Federal requirements. The following file reviews implement these requirements.

Each OPDES permit number is stored in a single file separated by the following titled categories: CLIP 1 - Summary Sheet; CLIP 2 - Application for NPDES Permit; CLIP 3 - NPDES Permit, Fact Sheet, Public Notice of Permit, Application, Affidavit of No Discharge; CLIP 4 - Correspondence, Modifications; CLIP 5 - Legal Documents; CLIP 6 - Rationale; Maps; Technical Backup. Unless otherwise noted, the reviewers found all the permit documents present and properly filed according to the document type.

The administrative and technical file reviewers found the permit information easily in the appropriate permit file sections, and the files reviewed appear to contain all the required documents which constitute an administrative record in an organized condition. Adherence to regulatory and procedural requirements has been appropriate. However, EPA is concerned that a number of the WET and Pretreatment files did not contain the required documents, supporting documentation, and records of ODEQ actions. See discussion at Sections L.3 and L.4 below. EPA recommends that ODEQ redouble efforts to place all permitting activity and ODEQ action documentation in the appropriate WET and Pretreatment files.

#### 1. ADMINISTRATIVE FILE REVIEW

The administrative review was conducted by Diane Smith and LaGayla Bradley of the Customer Service Branch. The following OPDES permit files were closely reviewed using the Agency's permit review checklist to determine if the files contained the materials cited in 40CFR124 as applicable to State programs:

##### OK MAJORS

OK0000523	USA - McAlester Army Ammunition	NON-POTW
OK0000876	Sun Company, Inc.	NON-POTW
OK0026832	Wagoner Public Works Authority	POTW
OK0028134	Okmulgee, City of	POTW
OK0039063	Durant City Utilities Auth	POTW
OK0040916	Ponca City Conoco Inc	NON-POTW

##### OK MINORS

OK0001031	Georgia Gulf Chemicals & Vinyl	NON-POTW
OK0020796	Delaware, City of	POTW
OK0028118	Skiatook, Town of	POTW
OK0028347	Cleveland, City of	POTW
OK0029173	Tuttle, City of	POTW
OK0034631	Webbers Falls, City of	POTW
OK0035599	Oilton Public Works Authority	POTW
OK0041530	Meridian Aggregates Co	NON-POTW
OK0042536	Dolese Bros. Co. - Big Canyon	NON-POTW
OK0044156	Covanta Energy Co - Covanta Tuls	NON-POTW

ODEQ staff were very supportive during the file review. The requested files were made available, and the permit information was easily located in the appropriate permit file sections. All files reviewed appear to contain all the required documents (i.e. applications, correspondence, draft/final permits, fact sheets, response to comments, and public notices) which constitute an administrative record in an organized condition. Adherence to regulatory and procedural requirements has been appropriate. The files were in great shape, and no problems were encountered. PCS "issued permits" data are being properly entered into the system with only minor discrepancies. A current PCS corrections report was provided to the ODEQ staff responsible for the PCS input.

#### 2. TECHNICAL FILE REVIEW

The technical review was conducted by Ed McHam of the NPDES Permits Branch on the following permit files. Unless noted, all permits are classified as minor facilities.

OK0029173	City of Tuttle	POTW
OK0038181	ESCO Div. of Fintube	NON-POTW
OK0041530	Meridian Aggregates - Snyder Quarry	NON-POTW
OK0042102	Mac Acquisitions - Troy Quarry	NON-POTW

OK0042153	Dolese Brothers - Cooperton Quarry	NON-POTW
OK0042293	United Parcel Service	NON-POTW
OK0042536	Dolese Brothers - Big Canyon Quarry	NON-POTW
OK0044105	Dolese Brothers - East Sand Plant	NON-POTW
OK0044148	Meridian Aggregates - Sawyer	NON-POTW
OK0044211	Holliday Sand & Gravel - Bixby	NON-POTW

#### PERMIT QUALITY

The minor permits reviewed meet the requirements of the NPDES regulations and the CWA. The statements of basis were of high quality and clearly establish the technical and legal basis for the permit requirements. All permit files included a statement of basis discussion on endangered species impacts and permitting requirements for discharges to streams on the Oklahoma 303(d) List.

#### SEWAGE SLUDGE AND MWPP REQUIREMENTS

Section IV.D.A.5.f of the MOA requires all municipal POTW (SIC code 4952) NPDES permits to contain 40CFR503 requirements. All POTW permits reviewed contained a Part IV Sewage Sludge Requirements. The permits additionally required compliance with federal regulations for municipal solid waste landfills (40CFR258), sludge (40CFR503), and non-hazardous solid waste (40CFR257), and state regulations at OAC:252:647. Section IV.D.A.5.g of the MOA requires all municipal NPDES permits to contain Municipal Water Pollution Prevention (MWPP) requirements. All POTW permits reviewed contained MWPP requirements.

#### 3. WET FILE REVIEW

The ODEQ Whole Effluent Toxicity (WET) program was evaluated by Phil Jennings of the NPDES Permits Branch. Unless noted, all permits are classified as major facilities. The evaluation included discussions of specific permits/issues and a review of the following permit files:

OK0001295	TPI Petroleum - Ardmore Refinery	NON-POTW
OK0001309	Sinclair Oil Coporation	NON-POTW
OK0020788	City of Tecumseh	POTW
OK0021024	Farmland Industries - Enid	NON-POTW
OK0026093	Mc Alester	POTW
OK0026115	City of Ada	POTW
OK0026832	Wagoner Public Works	POTW
OK0027057	Stillwater, City of	POTW
OK0028134	City of Okmulgee	POTW
OK0036978	Oklahoma City - North Canadian	POTW
OK0038385	Oklahoma City - South Canadian	POTW
OK0038440	Ardmore, City of	POTW
OK0041491	Foss Reservoir PWA	NON-POTW

While most of the facility files contained supporting documentation of WET testing results, TREs, WET permit requirement compliance, and ODEQ followup actions, EPA is concerned that other files as discussed below did not. It is recommended that ODEQ redouble efforts to place all supporting WET permitting activity documentation in the public files.

#### OK0001295 (TPI PETROLEUM - ARDMORE REFINERY)

For WET test fathead minnow failures on 01/08/2002 and 03/12/2002, the facility should have submitted a TRE Plan by 06/12/2002. While the permit, biomonitoring, and enforcement files contain no documents showing ODEQ had notified TPI of the permit violation for failing to submit the Plan and quarterly reports in a timely manner, the enforcement file contained a 06/20/2002 ODEQ letter to TPI extending the TRE Plan submission date to

08/23/02 and first quarterly TRE Report submission date to 01/15/2003. Some documentation of events leading up to ODEQ's action would normally be expected to be placed in the files.

OK0021024 (FARMLAND INDUSTRIES)

The BioAquatics contract laboratory reports did not contain all required WET testing results. The 02/26/2002 testing report did not contain ammonia analytical results, and the 05/07/2002 testing report did not contain ammonia or TDS analytical results. There was no documentation in the file indicating ODEQ had raised the issue of missing data with Farmland. Farmland filed for bankruptcy in May 2002.

OK0026115 (CITY OF ADA)

The file permit did not contain a copy of the Part I limits section nor any WET testing requirements. The permit document contained only the signed permit cover page and Part II, Section A, Contributing Industries and Pretreatment Requirements.

OK0038385 (OKLAHOMA CITY - SOUTH CANADIAN PLANT)

This facility is in its 9th year of a Public Education Program (PEP) instituted due to toxicity to the invertebrate test organism, *Ceriodaphnia dubia*. The PEP program does not appear to be working. Since April 2001, the facility has failed six WET tests. It is not apparent from the permit file records that the facility has been performing the concurrent Diazinon monitoring required by the permit. *Ceriodaphnia dubia* testing failed on 07/2001, 08/2001, and 11/2001. According to Part II.2.b of the current permit, a TRE is required with a TRE Action Plan to be submitted to ODEQ within 90 days of the second test failure. The TRE permit requirements include quarterly WET testing, TRE reporting, and concurrent monitoring of any suspect pollutants. From information in the permit file, it appears that the facility did not comply with the permit requirements and considers the TRE as "voluntary." A Plan was finally submitted on 03/21/2002, suggesting that Diazinon was the toxicant. However, this conclusion is not supported by the Diazinon data placed in the file. The file record indicates ODEQ permitting and enforcement staff met with the facility on 04/24/2002 and provided feedback. Diazinon in samples used for WET testing measured 0.71, 0.36 and 0.15 micrograms/l on 04/08/2002, 04/10/2002 and 04/12/2002, respectively. However, there was 100% survival in all dilutions except 90% in the 75% effluent dilution.

4. PRETREATMENT FILE REVIEW

ODEQ is required to maintain adequate public files for each permittee at the central office which are easily accessible to EPA for audit purposes. For the Pretreatment Program, such files must include at a minimum, copies of the pretreatment program reports and approved POTW pretreatment program documents (MOA Sections III.A.6.o, III.A.6.s).

The Pretreatment Program review was conducted by Lee Bohme of the NPDES Permits Branch on the following files:

OK0020303	Owasso Public Works Authority	POTW
OK0026051	Shawnee Municipal Authority - South	POTW
OK0026832	Wagoner Public Works Authority	POTW
OK0028037	Altus, City of (Southeast)	POTW
OK0030422	Ardmore, City of (Industrial Air Park)	POTW
OK0031909	Blackwell, City of	POTW
OK0034568	Oklahoma Ordnance Works Authority	POTW
OK0035246	Lawton, City of	POTW

OK0039063	Durant City Utilities Authority	POTW
OK0043974	Sapulpa, City of (Regional)	POTW

With a few exceptions discussed below for the files of Ardmore, Blackwell, Owasso, and Shawnee, the permit and pretreatment information was generally easily located in the appropriate file sections, and the files reviewed appear to contain all the required documents which constitute an administrative record in an organized condition. Adherence to regulatory and procedural requirements has been appropriate.

OK0020303 (OWASSO PUBLIC WORKS AUTHORITY)

The most recently issued permit required the POTW to begin developing a Pretreatment Program by conducting an Industrial User (IU) Survey. A copy of the IU Survey conducted by the City of Owasso was found in the files, but no response from ODEQ was found. The decision for the City to terminate the requirement to develop a complete Pretreatment Program has been made, and they have apparently been informed of this decision. The notification letter is available, but it was not in the file.

OK0026051 (SHAWNEE MUNICIPAL AUTHORITY - SOUTH WWTF)

While all of the approval paperwork was present, the Pretreatment Program modification approved on 06/20/2002 was not in the file.

OK0030422 (CITY OF ARDMORE - INDUSTRIAL AIR PARK WWTF)

The permit for this facility does not contain the appropriate Pretreatment language. It contains the Pretreatment language for facilities that are not part of an approved Pretreatment Program. The previously issued permit for this facility did have the correct language.

OK0031909 (CITY OF BLACKWELL)

The permit which became effective on 01/01/2002 contained the requirement for the POTW to begin developing a Pretreatment Program by conducting an Industrial User (IU) Survey. This activity was to be completed and submitted by 03/01/2002. The only paperwork in the files about this activity was a letter from the City of Blackwell dated 05/08/2002 stating that they were beginning the IU survey, and that it should be complete in 45 days. No further record of a submittal from the city, nor enforcement or IU survey completion notice from ODEQ was found in the files. The program development has been formally terminated, but there is nothing in the files that would indicate this action.

M. CWA SECTION 405 SEWAGE SLUDGE PROGRAM

ODEQ assumed authority to administer the sewage sludge program at the same time authority was assumed for the NPDES program. Section IV.D.A.5.f of the MOA requires all municipal (SIC code 4952) NPDES permits to contain 40CFR503 requirements. Sludge requirements are included in every permit issued to publicly owned municipal sanitary wastewater treatment facilities.

On 05/22/02, EPA received the preliminary draft general permit for Land Application of Sewage Sludge, Tier II (OKG65S000). A "no objection" finding was issued by EPA on 08/08/2001 (FY2002) after ODEQ addressed EPA's comments and suggestions of 07/19/2002. Issuance is targeted for the end of CY2002 Q4.

N. WHOLE EFFLUENT TOXICITY PROGRAM

While ODEQ permits appear to fully implement the aquatic toxicity permitting requirements of the NPDES regulations, EPA guidance, and the Oklahoma Water

Quality Standards, EPA is concerned with the significant time delay in certain permits between the toxicity retest failure and the initiation of the TRE as required in the permit. See previous discussion at Section L.3. EPA recommends that ODEQ develop toxicity permit review procedures which will ensure accurate tracking of toxicity retest failures and the timely initiation of TRE permit requirements. EPA is also concerned that permit TRE requirements in certain reviewed permits appear to be considered "voluntary" by both the permittee and ODEQ. EPA recommends that ODEQ clarify to permittees the mandatory TRE requirements of the permits where applicable.

O. PRETREATMENT PROGRAM

The MOA outlines the following ODEQ Pretreatment Program responsibilities:

Develop and maintain the resources and legal capabilities required to carry out all aspects of the Pretreatment program (MOA Section III.A.1).

Prioritize the reissuance of permits to categorical industries or other significant industrial users with discharges to POTWs without an approved local pretreatment program (MOA Section III.A.2).

Require POTW Pretreatment Programs to be modified as it is determined that they are no longer able to meet the letter and intent of the General Pretreatment Regulations (40 CFR 403). Also, require that Technically Based Local Limits (TBLLs) are reassessed when the OPDES permit for any of the POTW plants is next reissued; review and respond to both Pretreatment Program modifications and TBLLs in a timely manner (MOA Section III.A.11).

EPA is responsible to overseeing the ODEQ administration of Pretreatment Program on a continuous basis for consistency with the CWA, this MOA, 106 Program Plan or the Performance Partnership Agreement, and all applicable federal regulations, guidelines, and policies (MOA Section III.B.5).

PROGRAM APPROVALS AND MODIFICATIONS

Since the reporting of a backlog of Pretreatment Program approval and modification actions in previous NPDES Program reviews, new internal procedures instituted by ODEQ to accomplish these tasks in a timely manner have essentially eliminated any backlog. The reduction of the backlog accomplished with great effort has placed the ODEQ Pretreatment Program in a much better position to deal with the continuing requirements placed on it. There are currently 27 approved Pretreatment Programs in Oklahoma.

During FY2002, two of the three new developing Pretreatment Programs were formally approved and adequately incorporated into their OPDES permits (Ada and McAlester). The remaining program for Durant which is in the development stage continues to move forward toward program development and formal approval. Over the past two years, three newly developed Pretreatment Programs for the Cities of Ada, Altus, and McAlester have been reviewed and formally approved.

During FY2002, Pretreatment Program modification approvals were finalized for Broken Arrow, Ponca City, and the Regional Metropolitan Utility Authority (RMUA). The program modification requests from the Cities of Lawton and Okmulgee are currently undergoing the formal review and approval process. Over the past two years, Pretreatment Program modification submittals have been approved for (1) Ardmore; (2) Bethany Warr-Acres; (3) Broken Arrow; (4) Claremore; (5) Enid; (6) Lawton; (7) Midwest City; (8) Norman; (9) Ponca City; (10) Regional Metropolitan Utility Authority (RMUA); (11) Shawnee, and (12) Tulsa. Many of these modification submittals were part of a substantial past backlog. The approvals demonstrate not only the overall effort involved,

but the effectiveness of the newly developed system for getting these tasks accomplished in a timely manner. Not only is this progress to be commended, but the ODEQ Pretreatment Program is now better able to respond to the continuing needs of the various aspects of the program.

#### PRETREATMENT PROGRAM AUDITS MUNICIPAL POLLUTION PREVENTION ASSESSMENTS (MPPAs)

Conducting the Pretreatment Program audits and assessments in an effective and timely manner and completing the audit reports with skill and appropriateness are important tools for determining the health of the Pretreatment Programs. ODEQ has demonstrated very good skill and knowledge in completing these tasks. All five Pretreatment Program audits and assessments scheduled for completion within FY2002 have been completed. Over the last two years, audits and assessments have been conducted for (1) Altus; (2) Bethany Warr-Acres; (3) Enid; (4) Midwest City; (5) Moore; (6) Norman; (7) Oklahoma Ordnance Works; (8) Sand Springs; (9) Sapulpa and (10) Shawnee. The completed reports presented detailed information about the programs and presented succinct and insightful requirements and recommendations.

#### SIGNIFICANT INDUSTRIAL USERS (SIUs) DISCHARGING TO NON-PRETREATMENT POTWs

Control of the significant industrial users (SIUs) discharging to non-Pretreatment Publicly Owned Treatment Works (POTWs) is very important to the health of the Pretreatment Program. The process for implementing control of SIUs is very complex and includes many steps such as: (1) identification of potential SIUs; (2) setting up lists of potential SIUs; (3) creating forms, notices, explanations, and letters to be sent to the potential SIUs; (4) mailing the large number of letters and packages to the potential SIUs; and (5) designing and setting up Stakeholder Meetings to convey the appropriate information to these companies.

ODEQ has been diligent in controlling SIUs discharging to non-Pretreatment POTWs. To ensure the future success of ODEQ's efforts, EPA will be working with the Department to establish formal procedures for (1) defining resources required for tracking, permitting, inspections, and enforcement; (2) listing of all identified SIUs, and (3) listing of SIUs operating under a state "industrial user" permit.

#### STAFF AND STAKEHOLDER TRAINING

While ODEQ has made great strides in developing and maintaining an effective Pretreatment Program, EPA continues to note potential negative impacts to the program which could be created by future staff transfers or departures in the absence of adequately trained additional staff. There does not appear to be any formal plan for adequate staff cross training. To ensure the stability of the Pretreatment Program, EPA again recommends ODEQ obtain and/or cross train additional staff members in the Pretreatment Program operations and requirements. It is requested that ODEQ submit to EPA a plan for obtaining and/or cross training additional staff in the administration of the Pretreatment Program.

To enhance cross staff training, it is strongly recommended that ODEQ send representatives to the annual National Pretreatment Workshops. These workshops afford the opportunity to network with other state Pretreatment Program staff and help in making progress in the Pretreatment Program without having to "reinvent the wheel." The workshops also gives a better perspective of national issues as well as being better informed and prepared to deal with regulatory actions or inactions.

ODEQ pretreatment staff in March 2002 conducted a Fats, Oils, and Grease (FOG) training session for both city personnel and FOG contributors. This training, a positive step in providing a better understanding of the problems, possible solutions, and the reasons for controlling FOG constituents, should contribute to the future effectiveness of the program.

Many of the smaller cities do not have adequate opportunities for pertinent pretreatment training and information exchange. EPA recommends ODEQ hold periodic, pretreatment workshops for smaller cities in various locations around the state where several ODEQ media groups could participate and convey a variety of information to the attendees.

P. PROGRAM REVIEW FINDINGS SUMMARY

1. STRENGTHS

- ODEQ is on a schedule to readopt the OPDES program rules no later than July 1 of each year reflecting the CFR published as of July 1 of the previous year (including but not limited to required CFR provisions listed at 40CFR123.25) [Section C].
- ODEQ has been very diligent in submitting requests for needed changes in the Water Quality Management Plan to EPA prior to final permit drafting and issuance [Section E.2].
- The degree of cooperation and coordination between the two agencies during FY2002 is a success story. ODEQ has been very responsive to working with EPA in all program areas.
- EPA is very pleased with the high level of cooperation and coordination to resolve permit concerns which have been successful in the issuance of high quality OPDES permits [Section I].
- ODEQ is committed to developing and issuing general permits to achieve maximum regulatory coverage of dischargers without the intensive resources required to issue individual permits [Section J.2].
- ODEQ is to be congratulated for meeting the CY2001 national goal of reducing the major permit backlog to 10% or less. ODEQ was one of 14 NPDES authorized state programs nation-wide and the only Region 6 NPDES authorized state program to achieve the national goal [Section J.3].
- ODEQ is proactive in making the permitting process information available to the public through public information meetings and the World Wide Web [Section K.1].
- ODEQ has a strong working relationship with federal and state agencies in the issuance of OPDES permits [Section K.2].
- The administrative and technical file reviewers found the permit information easily in the appropriate permit file sections, and the files reviewed appear to contain all the required documents which constitute an administrative record in an organized condition. Adherence to regulatory and procedural requirements has been appropriate. The minor permits reviewed meet the requirements of the NPDES regulations and the CWA, and the statements of basis were of high quality and clearly establish the technical and legal basis for the permit requirements [Sections L.1 and 2].
- All POTW permits contained a (1) Part IV Sewage Sludge Requirements and required compliance with federal regulations for landfills, sludge, and



solid waste and (2) Municipal Water Pollution Prevention (MWPP) requirements [Sections L.2 and M].

- ODEQ permits fully implement the aquatic toxicity permitting requirements of the NPDES regulations, EPA guidance, and the Oklahoma Water Quality Standards [Section N].
- New internal procedures instituted by ODEQ to accomplish Pretreatment Program approval and modification actions in a timely manner have essentially eliminated any backlog [Section O].
- ODEQ has demonstrated very good skill and knowledge in conducting the Pretreatment Program audits and assessments in an effective and timely manner and completing the audit reports with skill and appropriateness [Section O].
- ODEQ has been diligent in controlling SIUs discharging to non-Pretreatment POTWs [Section O].
- ODEQ pretreatment staff in March 2002 conducted a Fats, Oils, and Grease (FOG) training session for both city personnel and FOG contributors [Section O].

## 2. CONCERNS

- The backlog of expired and never issued individual permits remains a national program concern, and ODEQ needs to continue to take aggressive steps to maintain the major permit backlog at or below 10% and achieve a minor permit backlog of 10% or less by the end of CY2004 [Section J.3].
- EPA is concerned that a number of the WET and Pretreatment files did not contain the required documents, supporting documentation, and records of ODEQ actions [Section L].
- EPA is concerned with the significant time delay in certain permits between the toxicity retest failure and the initiation of the TRE as required in the permit [Section N].
- EPA is also concerned that permit TRE requirements in certain reviewed permits appear to be considered "voluntary" by both the permittee and ODEQ [Section N].
- EPA continues to note potential negative impacts to the Pretreatment Program which could be created by future staff transfers or departures in the absence of adequately trained additional staff [Section O].

## 3. RECOMMENDATIONS/REQUESTED ACTIONS

- It is recommended that ODEQ specifically reference facilities with SIC codes 4221 (other than stormwater), 5154, and 5171 (other than stormwater in certain circumstances) as being under EPA permitting jurisdiction in the next MOA revision [Section D].
- ODEQ is requested to reaffirm in writing to EPA within 45 days of the receipt of this report its commitment to maintain the major permit backlog within national goals and achieve the national minor permit backlog reduction goals within the EPA national deadlines [Section J.3].
- EPA recommends that ODEQ redouble efforts to place all permitting activity and ODEQ action documentation in the appropriate WET and Pretreatment files [Section L].

- EPA recommends that ODEQ develop toxicity permit review procedures which will ensure accurate tracking of toxicity retest failures and the timely initiation of TRE permit requirements [Section N].
- EPA recommends that ODEQ clarify to permittees the mandatory TRE requirements of the permits where applicable [Section N].
- To ensure the stability of the Pretreatment Program, EPA again recommends ODEQ cross train additional staff members in the Pretreatment Program operations and requirements [Section O].
- It is requested that ODEQ submit to EPA a plan for obtaining and/or cross training additional staff in the administration of the Pretreatment Program [Section O].
- To enhance cross staff training, it is strongly recommended that ODEQ send representatives to the annual National Pretreatment Workshops [Section O].
- EPA recommends ODEQ hold periodic, pretreatment workshops for smaller cities [Section O].

## APPENDIX A SIC CODES - EPA PERMIT JURISDICTION

Breakout of SIC codes by division, range, and individual classification code for NPDES permits under EPA jurisdiction and responsibility pursuant to Section III.C of the MOA.

01 AGRICULTURAL PRODUCTION-CROPS: SIC CODE RANGE(S) 0100-0199

0111, 0112, 0115, 0116, 0119, 0131, 0132, 0133, 0134, 0139,  
0161, 0171, 0172, 0173, 0174, 0175, 0179, 0181, 0182, 0191

02 AGRICULTURAL PRODUCTION-LIVESTOCK: SIC CODE RANGE(S) 0200-0272, 0274-0299

0211, 0212, 0213, 0214, 0219, 0241, 0251, 0252,  
0253, 0254, 0259, 0271, 0272, 0279, 0291

07 AGRICULTURAL SERVICES: SIC CODE RANGE(S) 0700-0799

0711, 0721, 0722, 0723, 0724, 0741, 0742,  
0751, 0752, 0761, 0762, 0781, 0782, 0783

08 FORESTRY: SIC CODE RANGE(S) 0800-0899

0811, 0831, 0851

09 FISHING, HUNTING, AND TRAPPING: SIC CODE RANGE(S) 0900-0919, 0930-0999

0912, 0913, 0919, 0971

13 OIL AND GAS EXTRACTION: SIC CODE RANGE(S) 1300-1320, 1322-1399

1311, 1381, 1382, 1389

42 TRUCKING & WAREHOUSING: SIC CODE RANGE(S) 4221

4221 (Farm Product Warehouse/Storage - Grain Elevators)  
- other than stormwater.

NOTE: SIC code 4221 - ODEQ has environmental jurisdiction over stormwater discharges under Title 27A O.S Section 1-3-101 (OSCN 2002) Subsection D.2.b.2.

46 PIPELINES, EXCEPT NATURAL GAS: SIC CODE RANGE(S) 4600-4699

4612, 4613, 4619

49 ELECTRIC/GAS/SANITARY SVCS: SIC CODE RANGE(S) 4920-4929, 4971:

4922, 4923, 4924, 4925, 4971

51 WHOLESALE TRADE-NONDURABLE GOODS: SIC CODE

5154, 5171 (Outside refinery, etc., battery limits)

NOTE: SIC code 5171 - Petroleum Bulk Terminal/Stations. ODEQ has environmental jurisdiction for 5171 stormwater under certain circumstances and point/nonpoint source discharges of pollutants and stormwater from facilities located inside the battery limits of refineries, petrochemical manufacturing plants, and natural gas liquids extraction plants under Title 27A O.S Section 1-3-101 (OSCN 2001) Subsection E.7.a.

## APPENDIX B OPDES PROGRAM PERMIT OVERSIGHT REVIEW

SUMMARY STATE FY2002 (JULY 1, 2001- JUNE 30, 2002)OPDES DRAFT PERMITS - RECEIVED

	POTW				NON-POTW	
	TOTAL	GEN	MAJOR	MINOR	MAJOR	MINOR
Carryover FY2001	6	1	3	0	2	0
Jul 2001	2	0	1	0	1	0
Aug 2001	3	0	1	0	2	0
Sep 2001	1	0	1	0	0	0
Oct 2001	5	0	3	0	2	0
Nov 2001	4	0	2	0	2	0
Dec 2001	2	0	1	0	1	0
Jan 2002	3	1	0	0	2	0
Feb 2002	4	0	3	0	1	0
Mar 2002	7	0	4	0	3	0
Apr 2002	3	0	3	0	0	0
May 2002	2	1	1	0	0	0
Jun 2002	1	0	0	0	1	0
TOTAL	43	3	23	0	17	0

OPDES DRAFT PERMITS - FILE CLOSED

Permit Withdrawn	0	0	0	0	0	0
Comment None: Suggestion No	13	0	6	0	7	0
Comment None: Suggestion Yes	6	0	4	0	2	0
Comment Withdrawn: Suggestion No	5	1	3	0	1	0
Comment Withdrawn: Suggestion Yes	16	1	10	0	5	0
TOTAL	40	2	23	0	15	0

OPDES DRAFT PERMITS - CURRENTLY IN HOUSE

Comment Filed - Awaiting Response	2	0	0	0	2	0
Review - Under [X] Days	1	1	0	0	0	0
Review - Under [X] Days Plus Extension	0	0	0	0	0	0
Review - Over [X] Days	0	0	0	0	0	0
TOTAL	3	1	0	0	2	0

[X] Individual Permit = 30 Days; General Permit = 90 Days

PERMIT ACTION: RECEIVED AND CARRYOVER

	POTW				NONPOTW	
	TOTAL	GEN	MAJOR	MINOR	MAJOR	MINOR
First-Time Issue	8	3	1	0	4	0
Reissue Expiring Permit	24	0	17	0	7	0
Revoke and Reissue	0	0	0	0	0	0
Modification	2	0	2	0	0	0
Recommencing Discharger	0	0	0	0	0	0
Revised Draft/Proposed Permit	9	0	3	0	6	0
TOTAL	43	3	23	0	17	0

## APPENDIX C INDIVIDUAL PERMITS ISSUANCE FORECAST

Source of Data: PCS on 09/12/2002

	INDIVIDUAL FACILITIES	
	MAJOR	MINOR
<u>STATUS ON 09/12/2002</u>		
Total	95	455
Expired	9	78
No Expiration Date (*)	0	26
Number Backlogged	9	104
Current Backlog	9.5%	22.9%
<u>CY2002 REMAINING</u>		
Number Expiring	9	40
Number to be Issued	9	47
Projected Total 2002	95	455
Projected Backlog	9	97
CY2002 Backlog	9.5%	21.3%
<u>CY2003</u>		
Number Expiring	26	75
Number to be Issued	26	95
Projected Total 2003	95	455
Projected Backlog	9	77
CY2003 Backlog	9.5%	16.9%
<u>CY2004</u>		
Number Expiring	11	62
Number to be Issued	11	95
Projected Total 2004	95	455
Projected Backlog	9	44
CY2004 Backlog	9.5%	9.7%

(\*) No expiration dates in PCS. Counted as never-issued and used for calculating backlog.